

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DWAYNE ROBINSON BURRELL,

No. C-13-1109 EMC (pr)

Petitioner,

v.

**ORDER REOPENING TIME TO
APPEAL**

GREG LEWIS, Warden,

Respondent.

Petitioner's motion to file a late notice of appeal is construed to be a motion under Federal Rule of Appellate Procedure 4(a)(6) to reopen the time to file an appeal. (Docket # 13.) Judgment was entered in this action on October 21, 2014; petitioner stated under penalty of perjury that he did not receive notice of the entry of judgment until February 11, 2015 and put his motion to reopen the time to file an appeal in the prison mail on February 20, 2015; and there does not appear to be any prejudice to any party in permitting the reopening of the time to file an appeal. *See* Fed. R. App. P. 4(a)(6). The motion to reopen the time to file an appeal is **GRANTED**. The time for him to file an appeal is reopened "for a period of 14 days after the date" of this order. *Id.* Petitioner is cautioned that this order only reopens the time for him to file an appeal. **Petitioner must file a notice of appeal within 14 days of the date of this order if he wishes to pursue an appeal.**

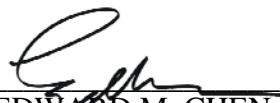
Petitioner's motion also requests a certificate of appealability. His request for a certificate of appealability is **DENIED** because Petitioner has not "made a substantial showing of the denial of a constitutional right," 28 U.S.C. § 2253(c)(2), and this is not a case in which "reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack v.*

1 *McDaniel*, 529 U.S. 473, 484 (2000). Petitioner may renew his request for a certificate of
2 appealability in the Ninth Circuit if he takes an appeal.

3 The Clerk shall send a copy of this order to Respondent's counsel, Petitioner, and the
4 following attorney: Steven A. Brody, Law Offices of Steven A. Brody, Suite 975, 350 S. Figueroa
5 Street, Los Angeles, CA 90071.

6
7 IT IS SO ORDERED.

8
9 Dated: February 27, 2015

10
11 
EDWARD M. CHEN
United States District Judge